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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,997	02/07/2006	Kenji Muraki	MTS-3564US	6609
23122	7590	12/28/2009	EXAMINER	
RATNERPRESTIA			DINH, MINH	
P.O. BOX 980			ART UNIT	
VALLEY FORGE, PA 19482			PAPER NUMBER	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/541,997	<b>Applicant(s)</b> MURAKI ET AL.	
	<b>Examiner</b> MINH DINH	<b>Art Unit</b> 2432	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,6,7 and 11-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3,6,7,15,16,18,19 and 21 is/are allowed.
- 6) ☒ Claim(s) 11-14,17 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to the amendment filed on 08/26/09. Claims 1-3, 11, 16-17 and 19-20 have been amended. Claims 4-5 have been cancelled.

### ***Response to Arguments***

2. Applicant's arguments, with respect to the rejection of claim 11, filed 08/26/09 have been fully considered but they are not persuasive. Applicant argues that SDMI Amendment 3 does not disclose or suggest, for SDMI-unprotected content, detecting a value of only a predetermined copy control information portion indicative of one type of copy control, without recognizing all of the types of copy control (Remarks, page 13). SDMI Amendment 3 discloses that if the audio content is not SDMI-protected content, (i) detect whether CCI (Copy Control Information) bits are embedded in the content as the Verance audio watermark; and (ii) if the CCI bits exist and are set to "no more copies" corresponding to value (1,1), the content will be rejected. Although SDMI Amendment 3 does not explicitly disclose that the CCI bits indicative of "no more copy" state is a portion of copy control information indicative of plural types of copy control, this feature is inherent to Verance audio watermark for SDMI technology (i.e., CCI comprises 4 bits and the two most significant bits are copy status bits indicative of three types of copy control). A new ground of rejection is made for claims 11-14 based on a different interpretation of the SDMI Amendment 3 reference.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 11-14, 17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by SDMI Amendment 3.

5. Regarding claims 11-14, 17 and 20, SDMI Amendment 3 discloses an SDMI-compliant playback apparatus which executes playback control utilizing copy control information, comprising: an electronic watermark detection section which does not detect said copy control information out of an SDMI-protected content recorded by an SD apparatus complying with an SDMI control method when said content is to be played back, but when an SDMI-unprotected content, which is a content other than said SDMI-protected content, is to be played back, detects a value indicative of one type of copy control, without recognizing all of the types of copy control, out of said content over which an electronic watermark expressing said copy control information is superimposed; and a playback section which plays back said content when playback of said SDMI-protected content is desired, and plays back said content in accordance with a detection result obtained by said electronic watermark detection section when playback of said SDMI-unprotected content is desired (i.e., if the content is not SDMI-protected content, (i) detect whether CCI (Copy Control Information) bits are embedded in the content as the Verance audio watermark; and (ii) if the CCI bits exist and are set

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to "no more copies" corresponding to value (1,1), the content will be rejected). Although SDMI Amendment 3 does not explicitly disclose that the CCI bits indicative of "no more copy" state is a portion of copy control information indicative of plural types of copy control, this feature is inherent to Verance audio watermark for SDMI technology (i.e., CCI comprises 4 bits and the two most significant bits are copy status bits indicative of three types of copy control).

### ***Allowable Subject Matter***

6. Claims 1-3, 6-7, 15-16, 18-19 and 21 are allowed over the prior art of record.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 7,454,621 to Maes et al.

U.S. Patent No. 7,340,152 to Talstra et al.

U.S. Patent No. 7,280,661 to Sako et al.

U.S. Patent No. 7,224,819 to Levy et al.

U.S. Patent No. 7,050,604 to Fujihara et al.

"4C 12 Bit Watermark Specification"

Winograd, "Audio Watermarking Technologies for Protection of Digital Audio and Video"

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH DINH whose telephone number is (571)272-3802. The examiner can normally be reached on Mon-Fri: 09:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Minh Dinh/  
Primary Examiner, Art Unit 2432

12/22/09